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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,562	04/25/2005	Nobutaka Fukagawa	033231-006	4281

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EXAMINER
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WOLLSCHLAGER, JEFFREY MICHAEL

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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10/31/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/532,562	<b>Applicant(s)</b> FUKAGAWA ET AL.	
	<b>Examiner</b> JEFFREY WOLLSCHLAGER	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-19 is/are pending in the application.
- 4a) Of the above claim(s) 5-11 and 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's amendment to the claims filed July 17, 2008 has been entered. Claims 1 and 4 are currently amended. Claims 5-11 and 13-19 remain withdrawn from consideration. Claims 1, 2, 4 and 12 are under examination.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 2, 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2001-166144 in view of JP 11-058425 and JP 2002-020363. *Note: citations to JP 2001-166144 are provided from the US equivalent document US 6,630,973.*

Regarding claim 1, JP '144 teaches a method of producing an optically anisotropic cellulose ester film containing a discotic compound in an amount of 0.01 to 20 weight parts based on 100 weight parts of the cellulose ester (Abstract) comprising preparing a solution of

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the materials (col. 27, lines 44-48) and casting the solution on a band/drum (col. 27, lines 44-48; col. 31, lines 21-24); drying the film with "flowing air" (col. 32, lines 37-38) and peeling the film off of the band/drum (col. 32, lines 37-38). JP '144 teaches the discotic compound is a 1, 3, 5-triazine ring based compound (col. 5, lines 42-col. 6, lines 9) wherein a large variety of substitutions may be made (col. 5, line 42-col. 20, line 40), including different substitutions for the "R's" (col. 8, lines 42-45), thereby suggesting the claimed aromatic compounds. Additionally, JP 2002-020363 teaches a method of producing a film wherein 1, 3, 5-triazine ring based compounds meeting the claimed structure are set forth as being suitable for producing a film (compounds (44) and (46) pages 20-22). JP '144 does not disclose that the velocity/wind speed of the "flowing air" is at least 10 m/min during a first half of drying prior to peel-off.

However, JP 11-058425 teaches an analogous method of forming a film on a drum/belt wherein the film is dried by passing air at a speed of 0.1-2 m/sec (6 -120 m/min) during a first stage of drying followed by an even more rapid drying of the film in a second stage (Abstract).

Therefore it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the method of JP 2001-166144 and to have employed the drying method of JP 11-058425, for the purpose, as suggested by JP 11-058425, of rapidly drying the film. Additionally, it would have been *prima facie* obvious to one having ordinary skill in the art at the time of the claimed invention to have modified the teaching of JP '144 and to have employed a specific 1,3,5-triazine based ring structure, such as the structures set forth by JP 2002-020363, since JP 2002-020363 suggests such compounds are equivalent and alternative triazine based ring structures suitable for forming films.

As to claim 2, JP '144 teaches the degree of acylation is 58 to 62.5% (col. 26, lines 48-51).

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As to claim 4, the combination employs the same claimed materials and performs the same claimed process in the same claimed manner. Accordingly, it follows that the same claimed effects and physical properties (e.g. retardation value  $R_e$ ) would be achieved by practicing the combined method.

As to claim 12, JP '144 teaches the cellulose acetate film is cast as a single layer (Example 1). As such, the layer is reasonably understood to be an outermost layer.

### ***Response to Arguments***

Applicant's arguments filed July 17, 2008 have been fully considered, but are moot in view of the new grounds of rejection necessitated by the amendment to the claims.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY WOLLSCHLAGER whose telephone number is (571)272-8937. The examiner can normally be reached on Monday - Thursday 6:45 - 4:15, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571-272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./  
Examiner, Art Unit 1791

November 1, 2008

/Monica A Huson/  
Primary Examiner, Art Unit 1791